



CITY OF HAYWARD

AGENDA REPORT

Meeting Date 9/18/03

Agenda Item 2

TO: Planning Commission

FROM: Tim R. Koonze, Assistant Planner

SUBJECT: Appeal of the Planning Director's Denial of Administrative Use Permit No. PL-2003-0330 – Operation Paintball (Operator/Applicant) - Seecon XVI Partners (Owner) - Request to Operate a Commercial Amusement Facility (Paintball) and Request Approval of an Exception to the Number of Parking Spaces Required

The Property Is Located at 1932 West Winton Avenue in an Industrial (I) Zoning District

RECOMMENDATION:

Staff recommends denial of the application. If the Planning Commission's action is to support the application:

1. Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301 Existing Facilities and Section 15305 Minor Alteration in Land Use Limitations;
2. Approve the use permit for a five-year period subject to the attached findings and conditions of approval; and
3. Approve the request for the parking exception subject to the attached findings.

DISCUSSION:

The Planning Commission, on July 24, 2003, directed staff to conduct the necessary environmental review, prepare findings and conditions of approval, and return the applications for Operation Paintball for final action. With the direction to proceed favorably with the application, the Building Division and Fire Department conducted an inspection of the premises. Multiple building violations were discovered including construction of a mezzanine without a building permit, required exit doors barred and rendered inaccessible, and bathrooms that do not meet handicap accessibility requirements. The violations discovered were serious enough for the Director of Community and Economic Development to suspend paintball operations. Staff has met with the applicant, and their architects and engineers and has provided direction as to what needs to be modified to bring the buildings into compliance.

Since the Planning Commission hearing, the tall poles supporting the netting for the outside playing area have been removed, and plans for a new outdoor structure have been submitted as part of a building permit that is currently being reviewed by the Building Division. Permits for the outside enclosure will not be issued unless the use permit has been approved.

Parking

The application includes an exception to the Off-Street Parking Regulations, which require 106 parking spaces for the recreational use. This facility already has a shared parking agreement with the adjacent businesses and to date a number of parking stalls available to motorists using both the paintball facility and surrounding businesses has been adequate, particularly in light of the fact that the hours of operation do not overlap. Approving the parking exception would not set a precedent because there are other cases where shared parking has been approved in the industrial area.

The applicant indicates that during peak play time periods the maximum number of players and staff is 58 (4 staff members and 54 players) and the Off-Street Parking Regulations allow for shared parking when up to 25 percent of the night-time or Sunday parking can be provided by adjacent businesses that utilize that parking in the daytime. The site plan attached to the staff report reflects a parking lot layout that includes shared parking that supports the applicant's request for a parking exception. Staff has reviewed the plans and has found them acceptable.

Design

The indoor portion of the facility is contained within an existing building and there are no proposals to alter the exterior. The outdoor facility is constructed of bare metal walls and netting. Staff recommends that the outdoor metal fencing be enhanced by painting the structure to match the warehouse and by adding an interesting graphic design. The entryways of the existing building should also be painted with similar graphic designs to those approved for the outdoor facility in order to add interest and provide a visual connection between the two structures. The final design should meet the approval of the Planning Director. This recommendation is reflected in condition No. 16.c. of the attached conditions of approval.

Attached are staff's recommended findings and conditions. The conditions include submitting building permit plans that comply with the requirements of the Building Division and the Fire Department and direction to continue suspension of all paintball operations until the Building Official and Fire Marshall deem it safe to return to the buildings. There is also a condition limiting the approval of the facility to a period of five years. This would allow time for the applicant to amortize much of their improvement costs and to find a location that is more suitable for a recreation facility that includes children.

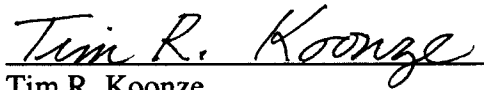
Public Notice

The Planning Commission, on July 24, 2003, directed staff to conduct the necessary environmental review, prepare findings and conditions of approval, and return the applications for Operation Paintball for final action. On September 8, 2003, a Notice of the Public hearing for the Planning Commission meeting was mailed to the same owners and tenants noticed for previous Planning Commission meeting.

Environmental Review

The proposal is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301 Existing Facilities and Section 15305 Minor Alteration in Land Use Limitations.

Prepared by:



Tim R. Koonze
Assistant Planner

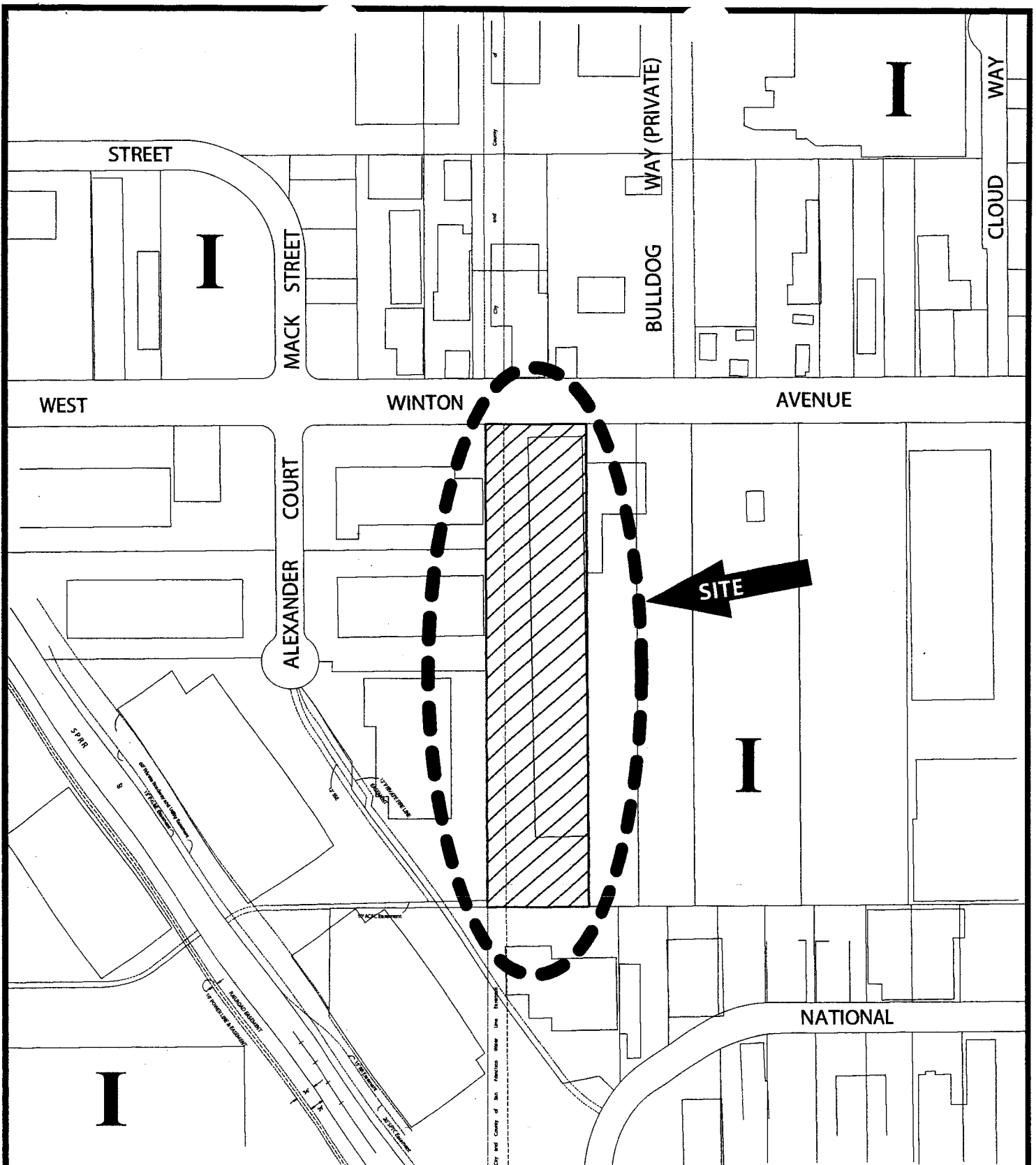
Recommended by:



Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area Map
- B. Findings for Approval
- C. Conditions of Approval
Site Plan



Area & Zoning Map

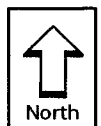
PL-2003-0330 AUP

Address: 1932 West Winton Avenue #1

Applicant: Gerald Reilly

Owner: Secon XVI Partners

I-Industrial



FINDINGS FOR APPROVAL
PL 2003-0330 Administrative Use Permit and
Exception to the Number of Parking Spaces Required
1932 West Winton Avenue
Operation Paintball

USE PERMIT

1. The proposal is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301 Existing Facilities and Section 15305 Minor Alteration in Land Use Limitations.
2. The project is desirable for the public welfare as it provides a safe facility that adds to the recreational needs of the community. The facility operates Friday evenings and weekends when recreational needs of the youth are at the optimum.
3. The proposed use conforms with applicable City policies in that
 - The paint-ball operation is consistent with the General Plan strategy that seeks to “promote Hayward as a City that has a broad variety of occupations and family incomes, ethnic diversity, diverse lifestyles and housing accommodations, a broad range of commercial services, educational and job opportunities, and many recreational facilities.” The additional recreational facility is unique to Hayward and adds to the variety of parks and recreational facilities that already exist in Hayward.
 - The paint-ball operation is consistent with the General Plan that seeks to “Promote Hayward as a destination for nonresidents” in that the customers of this facility come from all over the bay area to utilize this facility and therefore allows for a greater potential for commercial interaction by nonresidents.
 - The project conforms to the General Plan strategy that “encourages the provision of recreational facilities for all people, consistent with the changing demographic composition of the city” in that it is a facility that caters to the youth of the community but also provides opportunities for family participation.
 - The paint-ball facility is consistent with the Architectural Design Principles of the Hayward Zoning Ordinance in that the indoor portion of the facility is contained fully within the building and therefore does not alter the exterior appearance keeping the building consistent with those around it. Although the outdoor facility is constructed of metal fencing and netting, it is not visible from the street.

EXCEPTION TO PARKING REQUIREMENT

4. There are special conditions of circumstances peculiar to the property involved that do not apply generally to property in the same district in that the parking throughout the property is shared by all the businesses operating during different hours. The parking calculation was based on the businesses sharing the parking during normal business hours. The proposed facility will operate primarily on Friday nights and weekends when a majority of the adjacent businesses are closed.
5. Strict application of the Off Street Parking Regulations deprives such property of privileges enjoyed by other property in the vicinity under the same zoning classification as there have been previous approvals of non-industrial type businesses approved within the industrial zoning district that are allowed to share parking because their hours of operation do not conflict with adjacent businesses.
6. The granting of this exception would not grant a special privilege inconsistent with the limitations on other properties within the same district, although the use requires significantly more parking spaces than a normal industrial use, it will be operating during a time when most of the adjacent businesses are closed, and the parking associated with those uses may be used by Operation Paintball customers.
7. The granting of this exemption is consistent with the purpose of the Off Street Parking Regulations in that;
 - a. Up to 25 percent of parking facilities required for night-time or Sunday uses may be supplied by the off-street parking facilities provided by daytime and/or week-day use. There are 36 parking spaces available for the building which exceeds 25 percent of the 106 stalls required by the Off-Street Parking Regulations.
 - b. The business adjacent to the proposed project meet the definition of daytime uses identified in the Off Street Parking Regulations.
 - c. The Planning Director has determined that the proposed use meets the definition of night-time and/or Sunday uses as identified in the Off-Street Parking Regulations.

CONDITIONS OF APPROVAL
PL 2003-0330 Administrative Use Permit for Commercial Amusement Facility
and Exception to Number of Parking Spaces Required
1932 West Winton Avenue
Operation Paintball

1. Administrative Use Permit Application No. PL-2003-0330 is approved subject to the plans labeled Exhibit "A" and the conditions listed below. This permit becomes void one year after the effective date of approval unless business operations have commenced in accordance with all applicable conditions of approval. A request for a one-year extension, approval of which is not guaranteed, must be submitted to the Planning Division at least 15 days prior to the above date.
2. This permit shall expire 5 years from the effective date of approval of this permit with approval of a new application by the Planning Commission required for continued operation. The Commission shall evaluate conflicts experienced between the commercial amusement facility and the surrounding industrial uses.
3. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
4. Prior to commencement of paintball facility operations within the building approval must be received from the Building Official.
5. Prior to commencement of paintball facility operations, any building, structure, or portion of building or structure, shall be approved for occupancy by the Fire Marshall and Building Official.
 - a. All necessary building permits shall have been issued, and the construction inspected, prior to occupancy of any building, structure, or portion thereof; and
 - b. A 4-foot-wide walkway shall be painted on the ground between the rental entrance to the entrance into the outdoor facility to increase the safety of patrons utilizing the outside facility.
6. Any proposal for alterations to the proposed site plan and/or design, which does not require a variance to any zoning code, must be approved by the Planning Director prior to implementation.
7. Operation paintball employees shall collect litter or debris originating from their site on a daily basis within a 300-foot radius of the site.
8. No vending machines or other goods or products shall be displayed or sold outside the building.

9. Public telephones shall not be installed outside the building.
10. The hours of operation shall be as follows:
 - Monday – Thursday
5:00pm – 10:00pm, except that special events may be scheduled at other times by appointment only; special events shall not include patrons under 18 years of age.
 - Friday
5:00pm – Midnight, except that special events may be scheduled at other times by appointment only; special events shall not include patrons under 18 years of age.
 - Saturday/ Holidays not followed by a school day
10:00am – Midnight
 - Sunday
10:00am – 10:00pm
11. The manager shall take whatever steps are necessary to assure the orderly conduct of employees, patrons and visitors on the premises to the satisfaction of the Planning Director and the Police Chief, which may including the hiring of security guards.
12. There shall be no consumption of alcoholic beverages or illegal substances on the property. Signs indicating “No Alcohol” and “No Drugs” shall be clearly displayed to the public at all times.
13. Management shall actively supervise the activities of minors on the property during non-play times to discourage loitering outside the premises, in front of adjacent businesses and in the parking areas, and to prevent conflicts with the activities of other businesses on the property. Signage indicating “No Loitering” shall be installed in the parking lot.
14. The facility’s rules and regulations, these conditions of approval, and the business license shall be clearly displayed to the public at all times.
15. Landscaping shall be maintained in a healthy, weed-free condition at all times. The owner’s representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within ten days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to Municipal Code.
16. Conformance with the following conditions shall be accomplished within 45 days, or as otherwise directed below, of the effective date of approval. Failure to comply may result in revocation of the permit.
 - a. The parking lot shall be restriped per the approved site plan.
 - b. All signs shall comply with the Sign Ordinance regulations for the Industrial Zoning district.

- c. The fence surrounding the outdoor play area shall be painted, or a graphic applied, to reflect the nature of the use, subject to approval by the Planning Director. The color/motif of the fence shall be replicated on the roll-up doors and entry doors of the tenant spaces used by the facility.
 - d. The applicant shall submit detailed landscaping and irrigation plans shall be prepared by a licensed landscape architect and submitted for review and approval by the City. Landscaping and irrigation plans shall comply with the City's Water Efficient Landscape Ordinance. Some of the plant material as shown on the conceptual plan may not be appropriate for the use shown. Additional groundcover may be required in some areas. Flowering shrubs and ground cover shall be used to provide color and interest to the landscape areas. The plan shall include the landscape areas identified on the site plan submitted as an attachment to the Planning Commission report.
 - e. Landscaped areas adjoining drives and/or parking areas shall be separated by a 6-inch high class "B" Portland Cement concrete curb.
 - f. Within 6 months of the use permit approval landscape improvements shall be installed according to the approved plans and a Certificate of Substantial Completion, and an Irrigation Schedule shall be submitted for review and approval.
 - g. Lighting in the parking areas and the exterior walkway shall conform to the Security Ordinance and be controlled by photocells. The lighting plan shall be approved by the Planning Director.
 - h. The project shall comply with the provisions of the Security Ordinance that pertain to address numbers, lighting, doors, windows and locks.
 - i. Within 3 months of the use permit approval a light switch activating all the interior lights shall be installed near the building entrance. The switch should be easily accessible and highly visible with a sign identifying it as a "Master Light Switch".
17. Violation of these conditions or requirements may result in the City of Hayward instituting a revocation hearing before the Planning Commission.